

**TESTIMONY OF CHARLES C. MADDUX, Esq.  
D.C. INSPECTOR GENERAL**

**Before the District of Columbia City Council  
Committee of the Whole  
June 19, 2001**

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**GOOD AFTERNOON, CHAIRMAN CROPP AND OTHER MEMBERS OF THE COUNCIL. I APPRECIATE THE OPPORTUNITY TO SHARE MY VIEWS ON THE PROSPECTIVE ROLE OF THE OFFICE OF THE INSPECTOR GENERAL (OIG) IN THE DISTRICT ONCE THE CONTROL BOARD IS SUSPENDED ON SEPTEMBER 30, 2001, AND TO DESCRIBE THE LEGISLATIVE PROPOSALS I HAVE SUBMITTED TO YOU AND TO THE MAYOR THAT WOULD ENHANCE AND CLARIFY OUR AUTHORITY AND INDEPENDENCE.**

**I BELIEVE A CONTINUING ROLE FOR THE OIG IS TO HELP MITIGATE CRITICAL RISKS TO THE DISTRICT BY HELPING TO FOSTER ACCOUNTABILITY AND INTEGRITY IN THE DISTRICT GOVERNMENT. MY VISION FOR ACHIEVING THIS GOAL RESTS ON A COMMITMENT TO STRATEGICALLY**

**FOCUS OUR LIMITED RESOURCES IN KEY AREAS SUCH AS DELIVERY OF SERVICES AND AVOIDANCE OF INEFFICIENT AND INEFFECTIVE MANAGEMENT OF PERSONNEL AND RESOURCES. ACCORDINGLY, I BELIEVE STRONGLY THAT THE OIG’S OVERSIGHT OF DISTRICT AFFAIRS DOES NOT AND SHOULD NOT INCLUDE THE POLICYMAKING AUTHORITY AND MANAGERIAL ROLE THAT HAS BEEN EXERCISED BY THE CONTROL BOARD. INSTEAD, I BELIEVE THE EFFECTIVENESS OF THE OIG IS TIED TO OUR ABILITY TO BE PERCEIVED AS, AND TO BE UTILIZED AS, A SOURCE OF INDEPENDENT, OBJECTIVE ANALYSIS THAT MAY BE CONSIDERED BY ALL STAKEHOLDERS. THEREFORE, I WOULD LIKE TO SHARE SEVERAL IDEAS, WHICH COMPORT WITH THE UNIQUE AND SPECIFIC FUNCTIONS OF OUR OFFICE AS WE MOVE FORWARD.**

### **ROLE OF THE IG**

#### **PROCUREMENT AND CONTRACT ADMINISTRATION**

**IN THE AREA OF PROCUREMENTS, THE OIG IS DEVELOPING A LONG-RANGE PLAN TO COVER PROCUREMENT AND CONTRACT ADMINISTRATION. SPECIFICALLY, WE INTEND**

**TO CONDUCT AUDITS WHICH ACCOMPLISH THE FOLLOWING: 1) IDENTIFY SYSTEMIC PROBLEMS AND THE POTENTIAL FOR MONETARY AND MANAGEMENT BENEFITS; 2) FOCUS ON SINGLE AGENCIES; AND 3) DETERMINE WHETHER THE COST OF CONTRACTS IS BEING PROPERLY ESTIMATED AND NEGOTIATED.**

### **RESIDENT AUDITORS**

**WE PLAN TO CREATE A PILOT PROGRAM FOR THE ESTABLISHMENT OF OIG RESIDENT AUDIT SITES AT VARIOUS AGENCIES. OIG RESIDENT AUDITORS WOULD PROVIDE AN INDEPENDENT AUDIT FUNCTION TO ENSURE THAT FUNDS ARE PROPERLY CONTROLLED AND ACCOUNTED FOR. IN ADDITION, THE AUDITORS WOULD PROVIDE CONTINUAL FEEDBACK ON EFFICIENCY AND EFFECTIVENESS. BASED ON OUR EARLY ANALYSIS, BY CHOOSING FIVE OR SIX OF THE AGENCIES WITH THE LARGEST BUDGETS AND MOST COMPLEX OPERATIONS, THE OIG COULD COVER APPROXIMATELY 50% OF THE DISTRICT'S OPERATING BUDGET.**

### **MORE INSPECTIONS**

**WE PLAN TO INTENSIFY OUR INSPECTIONS OF SELECTED AGENCIES, IN ACCORDANCE WITH THE STANDARDS FOR INTERNAL CONTROL RECENTLY PROMULGATED BY THE GENERAL ACCOUNTING OFFICE FOR FEDERAL AGENCIES. AGAIN, WE WILL CONCENTRATE ON AGENCIES WHICH DELIVER KEY SERVICES TO THE CITY AND WHICH HAVE THE GREATEST FISCAL IMPACT ON THE BUDGET.**

### **CREATION OF A CONTRACTOR INTEGRITY GROUP**

**WE BELIEVE THAT IT IS NECESSARY FOR THE DISTRICT TO CREATE A CONTRACTOR INTEGRITY GROUP (CIG), COMPRISED OF REPRESENTATIVES FROM THE OIG, OFFICE OF CONTRACTING AND PROCUREMENT, FBI, US ATTORNEY'S OFFICE, AND THE OFFICE OF THE CORPORATION COUNSEL. THE CIG WOULD CONDUCT BACKGROUND AND PREQUALIFICATION CHECKS OF CONTRACTORS SEEKING TO DO BUSINESS WITH THE DISTRICT.**

**BY STRATEGICALLY ALLOCATING RESOURCES IN THESE SPECIFIC AREAS, I BELIEVE WE WILL BE ABLE TO HELP THE MAYOR AND THE CITY COUNCIL TO MITIGATE MANY OF THE RISKS WHICH CARRY SIGNIFICANT FISCAL IMPACT.**

### **LEGISLATIVE PROPOSALS**

**IN TERMS OF LEGISLATION, THERE ARE SEVERAL PROPOSALS I WOULD LIKE TO DISCUSS. AS YOU KNOW, THE FEDERAL LEGISLATION THAT CREATED THE CONTROL BOARD HAD A SIGNIFICANT IMPACT ON THE ROLE OF THE INSPECTOR GENERAL'S OFFICE. TO ENABLE THE IG TO ASSIST THE CONTROL BOARD IN ADDRESSING BUDGET DEFICITS AND MANAGEMENT DEFICIENCIES IN THE DISTRICT GOVERNMENT, SECTION 303 OF PUBLIC LAW 104-8, THE DC FINANCIAL RESPONSIBILITY AND MANAGEMENT ASSISTANCE ACT OF 1995, PROVIDED THE IG WITH DUTIES CRUCIAL TO DETERMINING THE DISTRICT'S FISCAL STABILITY. AMONG THOSE DUTIES ARE**

**(1) CONTRACTING AUTHORITY TO AUDIT THE COMPLETE FINANCIAL STATEMENT OF THE DISTRICT GOVERNMENT FOR EACH YEAR AND (2) DEVELOPMENT OF AN ANNUAL**

**PLAN OF AUDITS BY THE IG TO BE CONDUCTED IN CONSULTATION WITH THE AUTHORITY, THE MAYOR, AND THE COUNCIL. I AM PLEASED TO SAY THAT THE COUNCIL'S ROLE HAS BEEN CONSTRUCTIVE IN BOTH REGARDS. YOU HAVE PARTICIPATED IN MY REGULAR CAFR OVERSIGHT COMMITTEE MEETINGS, AND YOU HAVE SUGGESTED MANY AUDITS AND INSPECTIONS THAT MY OFFICE HAS CONDUCTED OR IS ACTIVELY CONSIDERING FOR FUTURE WORK.**

**FORTUNATELY, OUR RESPONSIBILITIES REGARDING THE CAFR AND THE CONDUCT OF AUDITS PROVIDE US WITH A UNIQUE PERSPECTIVE OF THE DISTRICT'S FISCAL HEALTH. SECTION 209 OF PUBLIC LAW 104-8 ALLOWS US TO TAKE ADVANTAGE OF THIS PERSPECTIVE BY PLACING A DUTY ON THE IG TO PROVIDE WARNINGS CONCERNING THE EMERGENCE OF CERTAIN FISCAL WEAKNESSES THAT COULD TRIGGER THE INITIATION OF A CONTROL PERIOD. AN EXAMPLE OF SUCH A WARNING IS FAILURE TO MAKE TIMELY PAYROLL OR PENSION PAYMENTS. MY OFFICE**

**WILL REMAIN WATCHFUL OF THESE CONDITIONS, WHICH ARE SET FORTH IN FEDERAL LAW VERY SPECIFICALLY, AND WE WILL REPORT ON THEM ACCORDINGLY.**

**THE COUNCIL ALSO HAS PLAYED A CONSTRUCTIVE ROLE BY AMENDING THE IG STATUTE SEVERAL TIMES SINCE THE FEDERAL LEGISLATION WAS PASSED IN 1995. FOR EXAMPLE, THE COUNCIL PASSED LEGISLATION TO ALLOW OUR CRIMINAL INVESTIGATORS TO CARRY FIREARMS, MAKE ARRESTS, AND EXECUTE SEARCH WARRANTS ISSUED UPON PROBABLE CAUSE. THE COUNCIL ALSO MADE THE OIG POWERS AND PROCEDURES MORE CLOSELY RESEMBLE THOSE OF FEDERAL IG OFFICES AND HAS GIVEN OUR MEDICAID FRAUD CONTROL UNIT ADDITIONAL PROSECUTION AND INVESTIGATIONS OPTIONS.**

**I AM PLEASED TO SAY THAT, ON EACH OCCASION, THESE AMENDMENTS HAVE STRENGTHENED OUR AUTHORITIES AND CLARIFIED OUR MISSION. NEVERTHELESS, I AM RECOMMENDING A NUMBER OF ADDITIONAL LEGISLATIVE**

**CHANGES BECAUSE I BELIEVE THEY WOULD BE PARTICULARLY BENEFICIAL AS WE NOW ARE FOCUSING ON DOING ALL WE CAN TO BETTER ADDRESS RISKS TO THE DISTRICT IN THE POST-CONTROL BOARD YEARS. FORTUNATELY, WITH THE EXCEPTION OF PROPOSALS REGARDING THE FEDERAL ETHICS ACT AND THE FEDERAL FALSE STATEMENTS STATUTES, ALL OF MY LEGISLATIVE PROPOSALS CAN BE ADDRESSED BY MAKING CHANGES TO THE D.C. CODE. I WILL BRIEFLY SUMMARIZE THE PROPOSALS, AND WILL BE PLEASED TO RESPOND TO ANY SPECIFIC QUESTIONS YOU MAY HAVE TODAY.**

### **SUMMARY OF LEGISLATIVE PROPOSALS**

#### **FULL LAW ENFORCEMENT AUTHORITY (PROPOSAL #1)**

**CURRENTLY, OIG INVESTIGATORS ARE AUTHORIZED TO EXECUTE SEARCH WARRANTS, CARRY FIREARMS WHILE ON DUTY WITHIN THE DISTRICT OF COLUMBIA, AND ARREST FOR FELONIES OCCURRING WITHIN THEIR PRESENCE. HOWEVER, OIG INVESTIGATORS MAY NEITHER ARREST THE SUBJECTS OF OUR OWN INVESTIGATIONS, NOR MAKE**

**WARRANTLESS ARRESTS WHEN THERE IS PROBABLE CAUSE TO BELIEVE A FELONY HAS BEEN COMMITTED. IN ADDITION, NEIGHBORING JURISDICTIONS HAVE DECLINED TO GRANT RECIPROCITY TO OUR INVESTIGATORS TO CARRY FIREARMS. THIS LIMITED GRANT OF LAW ENFORCEMENT AUTHORITY, THEREFORE, UNDERMINES OUR STATUTORY MISSION TO INDEPENDENTLY INVESTIGATE ALLEGATIONS OF CRIMINAL MISCONDUCT. IT DENIES OUR INVESTIGATORS ACCESS TO NECESSARY INVESTIGATIVE TOOLS, AND IT THREATENS THE SAFETY OF OUR INVESTIGATORS AS WELL AS THAT OF THE PUBLIC.**

**RESOLUTION OF DISAGREEMENTS IN AUDIT AND INSPECTION FINDINGS AND RECOMMENDATIONS**

**(PROPOSAL #2)**

**THE DISTRICT’S INSPECTOR GENERAL STATUTE, D.C. CODE § 1-1182.8, DOES NOT PROVIDE FOR TIMELY RESOLUTION OF DISAGREEMENTS BETWEEN THE OIG AND ANOTHER DISTRICT AGENCY. WE RECOMMEND THAT THE STATUTE BE AMENDED TO REQUIRE THE INSPECTOR GENERAL TO**

**FORWARD TO THE MAYOR FOR RESOLUTION ANY SIGNIFICANT FINDINGS AND RECOMMENDATIONS THAT HAVE NOT BEEN RESOLVED WITHIN SIX MONTHS OF THE FINAL REPORT. ALSO, WE RECOMMEND THAT THE STATUTE MANDATE PUBLICATION OF THE STATUS OF THESE UNRESOLVED ISSUES IN THE INSPECTOR GENERAL'S ANNUAL REPORT.**

**INCREASING THE INDEPENDENCE OF THE OFFICE OF THE INSPECTOR GENERAL AS A SUBORDINATE AGENCY**

**(PROPOSAL #3)**

**WE RECOMMEND SUPPLEMENTING THE DISTRICT'S IG STATUTE TO INCLUDE A SAFEGUARD THAT EXPRESSLY PROHIBITS THE MAYOR FROM INTERFERING WITH AN OIG AUDIT, INSPECTION, OR INVESTIGATION. THIS PROPOSAL IS NOT BEING OFFERED IN LIGHT OF ANY EXISTING PROBLEMS WITH THE CURRENT MAYOR, BUT IS INTENDED TO ACHIEVE SAFEGUARDS, WHICH ALREADY EXIST FOR FEDERAL INSPECTORS GENERAL WHO ALSO REPORT DIRECTLY TO THE EXECUTIVE HEAD.**

**COORDINATION BY THE DISTRICT OF COLUMBIA AUDITOR**

**(PROPOSAL #4)**

**THE INSPECTOR GENERAL STATUTE REQUIRES THE OIG TO  
“GIVE DUE REGARD” TO THE D.C. AUDITOR’S ACTIVITIES.**

**WE RECOMMEND CHANGES TO THE STATUTE, WHICH  
WOULD MANDATE RECIPROCITY FROM THE DISTRICT’S  
AUDITOR. COORDINATION BETWEEN BOTH AGENCIES IS  
ESSENTIAL TO PREVENT THE AUDITOR FROM  
INADVERTENTLY COMPROMISING OUR INVESTIGATIONS. IT  
ALSO HELPS TO PREVENT DUPLICATION OF OUR AGENCIES’  
EFFORTS AND RESOURCES.**

**PENALTIES FOR OBSTRUCTING OIG INSPECTIONS AND**

**AUDITS (PROPOSAL#5)**

**AT PRESENT, THE D.C. CODE PRESCRIBES CRIMINAL  
PENALTIES FOR OBSTRUCTION OF INVESTIGATIONS.  
UNLIKE FEDERAL LAW, HOWEVER, THERE IS NO DISTRICT  
PROVISION CRIMINALIZING OBSTRUCTION OF AN AUDIT OR**

**INSPECTION. WE RECOMMEND ENACTMENT OF SUCH A PROVISION.**

**INDEPENDENT INVESTIGATIONS OF THE DISTRICT OF COLUMBIA HOUSING AUTHORITY (PROPOSAL #6)**

**AT PRESENT, THE IG'S AUTHORITY TO CONDUCT INVESTIGATIONS REGARDING EMPLOYEES AND CONTRACTORS OF THE DISTRICT HOUSING AUTHORITY, WHICH IS AN INDEPENDENT AGENCY OF THE DISTRICT GOVERNMENT, IS LIMITED TO ONLY THOSE ALLEGATIONS REFERRED BY THE COUNCIL. WE RECOMMEND CHANGES TO THE DC CODE TO AUTHORIZE THE IG TO ACT UPON ALLEGATIONS RECEIVED FROM OTHER RELIABLE SOURCES.**

**APPLICATION OF THE FEDERAL ETHICS IN GOVERNMENT ACT TO THE DISTRICT OF COLUMBIA (PROPOSAL #7)**

**IT HAS BEEN OUR EXPERIENCE THAT THE DISTRICT HAS NEGLECTED TO FOCUS UPON CREATION OF A SYSTEM OF CLEAR ETHICAL STANDARDS FOR GOVERNMENT EMPLOYEES. CONSEQUENTLY, THE DISTRICT HAS NOT**

**ASSIGNED THIS CRITICAL AREA THE PRIORITY IT DESERVES. WE STRONGLY SUGGEST THAT SYSTEMATIC CHANGES TO THE REGULATIONS AND ENFORCEMENT PROCESS BE EXPLORED AND IMPLEMENTED TO ENSURE UNIFORM COMPLIANCE BY ALL DISTRICT GOVERNMENT EMPLOYEES AND OFFICIALS. WE HAVE ALREADY TAKEN PRELIMINARY STEPS TO IDENTIFY OTHER JURISDICTIONS WHICH HAVE ESTABLISHED THEIR OWN BODY OF ETHICS REGULATIONS. WE FOUND THAT FLORIDA, VIRGINIA, ILLINOIS, CALIFORNIA, AND NEW YORK HAVE DONE SO. THE DISTRICT OF COLUMBIA COULD WELL CHOOSE TO TAKE SIMILAR STEPS. HOWEVER, I STRONGLY SUGGEST THAT OUR STANDARDS MIRROR THOSE SET FORTH IN FEDERAL LAW. THE STANDARDS ARE CLEAR AND THEY ARE ENFORCEABLE.**

**INSPECTOR GENERAL REMOVAL AND SALARY CAP**

**(PROPOSAL #8)**

**THE INSPECTOR GENERAL STATUTE PROVIDES THAT DURING A NON-CONTROL YEAR, THE MAYOR MAY REMOVE THE INSPECTOR GENERAL WITH CAUSE. WE RECOMMEND**

**PLACING A “CHECK” ON THE MAYOR’S ABILITY TO REMOVE THE IG BY REQUIRING THAT THE COUNCIL APPROVE ANY SUCH ACTION BY A TWO-THIRDS MAJORITY. THE INSPECTOR GENERAL STATUTE FURTHER PROVIDES THAT THE INSPECTOR GENERAL’S SALARY MAY NOT EXCEED LEVEL IV OF THE EXECUTIVE SCHEDULE. THIS SALARY CAP SHOULD BE ELIMINATED IN ORDER TO ATTRACT THE MOST HIGHLY QUALIFIED APPLICANTS FOR THE IG POSITION IN FUTURE YEARS. THIS CHANGE ALSO WOULD HAVE THE EFFECT OF PROVIDING THE MAYOR -- NOT THE FEDERAL GOVERNMENT -- WITH THE OPPORTUNITY TO SET THE IG’S SALARY IN THE SAME WAY THAT HE NOW DOES WITH REGARD TO OTHER CABINET OFFICIALS.**

**ADDITIONAL PERSONNEL AUTHORITY (PROPOSAL #9)**

**THE CURRENT STATUTORY SCHEME ALLOWS THE MAYOR TO HIRE AND FIRE OIG EMPLOYEES, WHO – FOR THE MOST PART – MAY BE FIRED WITHOUT CAUSE. ADDITIONALLY, THE STATUTE PERMITS THE MAYOR TO DESIGNATE 60 EXCEPTED SERVICE POSITIONS TO THE OIG, WHICH**

**CURRENTLY HAS A COMPLEMENT OF 105 EMPLOYEES. WE RECOMMEND TRANSFERRING THIS AUTHORITY TO THE IG, TO ENHANCE THE OIG'S INDEPENDENCE AND TO ELIMINATE THE CONFUSION CREATED BY THE STATUTE.**

**APPLICABILITY OF THE FEDERAL FALSE STATEMENTS STATUTES (PROPOSAL #10)**

**UNDER FEDERAL LAW, IT IS A FELONY OFFENSE FOR A PERSON TO MAKE AN ORAL OR WRITTEN STATEMENT THAT IS MATERIALLY FALSE TO ANY BRANCH OF THE FEDERAL GOVERNMENT. THE DISTRICT'S FALSE STATEMENTS LAW, HOWEVER, APPLIES ONLY TO WRITTEN STATEMENTS AND IS PUNISHABLE AS A MISDEMEANOR OFFENSE. WE RECOMMEND INCLUDING THE DISTRICT OF COLUMBIA GOVERNMENT WITHIN THE SCOPE OF THE FEDERAL STATUTE TO ALLOW PROSECUTORS GREATER FLEXIBILITY IN CHARGING MORE EGREGIOUS FALSE STATEMENT VIOLATIONS.**

**AGAIN, I THANK YOU FOR THE OPPORTUNITY TO SHARE MY  
VIEWS TODAY, AND LOOK FORWARD TO WORKING WITH  
THE COMMITTEE AS WE DO ALL WE CAN TO ENSURE THE  
FISCAL HEALTH OF THE DISTRICT IN THE YEARS TO COME. I  
WILL BE PLEASED TO RESPOND TO ANY OF YOUR  
QUESTIONS AT THIS TIME.**